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**The G-Men in Kabul: The FBI Combating Public Corruption in Afghanistan**

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**A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.**

**The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.**

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## **Abstract**

The Federal Bureau of Investigation (FBI) in Afghanistan is using an innovative approach to battle public corruption. The FBI is utilizing an advance investigative tool: the Enterprise Theory of Investigation (ETI). This holistic and flexible approach to conducting complex investigations allows the investigator within the parameters of specific laws to creatively investigate, disrupt, and eventually dismantle intricate criminal organizations. ETI as applied by the FBI in a task force setting in Afghanistan is the most effective way to combat high-level public corruption afflicting this troubled nation.

This paper will examine the U.S. current anti-corruption policy in Afghanistan and the state of corruption in Afghanistan, and will illustrate the depth of the problem facing the U.S. and what is being done to address it. The reader will be introduced to the role the FBI plays in combatting public corruption in Afghanistan using the ETI as the operational art foundation for its work. Finally, a detailed discussion of the FBI led Major Crimes Task Force-Afghanistan (MCTF-A), its structure, training, and cases, will support the thesis that the ETI based investigations conducted by the MCTF-A are the best way to attack public corruption.

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—After seven years of drift, after seven years of policies in which...we weren't even effectively training Afghan security forces, what we've done is to say we're going to work with the Afghan government to train Afghan security forces.....We are going to encourage an Afghan government that can deliver services for its people. And we're going to try to make sure that as part of helping President Karzai stand up a broadly accepted, legitimate government, that corruption is reduced.”

President Barak Hussein Obama, press conference, East Room, White House, September 10, 2010.

## I. Introduction.

Admiral Michael Mullen, the Chairman of the Joint Chiefs of Staff (CJCS), summed up the situation in Afghanistan best during a November 2009 speech. He stated: “If we don't get a level of legitimacy and governance, then all the troops in the world aren't going to make any difference... (Karzai) has got to take concrete steps to eliminate corruption...that means that you have to rid yourself of those who are corrupt, you have to actually arrest and prosecute them.”<sup>1</sup> Unfortunately, in Afghanistan public corruption is an ill-structured problem for which the application of a simple solution as suggested by CJCS Mullen will not yield positive results. Nevertheless, public corruption in Afghanistan must be aggressively addressed by the United States (U.S.). Corruption has had the caustic effect of disillusioning Afghan society about the legitimacy of their government institutions, and compelling the citizens to seek justice and other services from the Taliban insurgents.

The dependence on the Taliban by the Afghan populace delegitimizes the Afghan Government. The consequences for the American efforts in Afghanistan are obvious: an illegitimate government is incapable of establishing a rule of law. Without this essential pillar of governance, a secure and stable Afghanistan is not possible, prolonging the country's dependence on the U.S. for security.<sup>2</sup> Presently,

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<sup>1</sup> Jim Michaels, “In Afghanistan, fighting a legacy of corruption; It's a way of life-and hinders U.S. efforts there,” *USA TODAY*, November 23, 2009, page 1A.

<sup>2</sup> Nita Colaco, “Crooked Progress: Afghanistan Tackles Corruption,” *Harvard International Review*, Fall 2008, page 12.

the corruption in Afghanistan is deeply entrenched throughout all levels of a complicated society and the Afghan justice system is barely effective. To resolve this problem creativity is —the best hope for realizing a functioning Afghan state... (and) an approach (is required) that creates and strengthens mechanisms for the prevention, detection, and prosecution of corruption.”<sup>3</sup>

The Federal Bureau of Investigation (FBI) in Afghanistan is using just such an innovative approach. The FBI is utilizing an advance investigative tool: the Enterprise Theory of Investigation (ETI). This holistic and flexible approach to conducting complex investigations allows the investigator within the parameters of specific laws to creatively investigate, disrupt, and eventually dismantle intricate criminal organizations. ETI as applied by the FBI in a task force setting in Afghanistan is the most effective way to combat high-level public corruption afflicting this troubled nation.

This paper will examine the current U.S. anti-corruption policy in Afghanistan, will illustrate the depth of the corruption problem facing the U.S. in Afghanistan, and what the U.S. is doing to address it. The reader will be introduced to the role the FBI plays in combatting public corruption in Afghanistan using the ETI as the operational art for its investigations. Finally, a detailed discussion of the FBI led Major Crimes Task Force-Afghanistan (MCTF-A), its structure, training, and cases, will support the thesis that the ETI based investigations conducted by the MCTF-A are the best way to attack public corruption.

## II. New U.S. Anti-Corruption Efforts in Afghanistan: National Objectives and Policies.

In January 2009, during Congressional testimony Secretary of Defense Gates reiterated President Obama’s Afghanistan strategy announced by the President on December 1, 2009. Gates identified the United States strategic objectives in Afghanistan as: —an Afghan people who do not provide a safe haven for Al Qaeda, reject the rule of the Taliban, and support the legitimate government that they elected and in which they have a stake.”<sup>4</sup> Gates advised the objectives will be reached by redirecting aid

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<sup>3</sup> Ibid, page 13, parenthesis added by author of this paper.

<sup>4</sup> Remarks by Secretary of Defense Gates, January 27, 2009, *Foreign Policy Bulletin*, June 2009, page 213.

and rebuilding efforts of the U.S. away from the Afghan central government and directed to the local governments.<sup>5</sup> The Administration believes a local-centric strategy will allow U.S. aid to bypass the insatiable corruption of the Afghan central government, and deliver aid to the Afghan people before it is pilfered away in Kabul.<sup>6</sup> The corruption “feeding frenzy” by government officials has eroded confidence in the Afghan Government. The populace lacking the basic government services of security and justice, are turning to the Taliban shadow government for help. “American officials have repeatedly warned Mr. Karzai that unless he truly commits to eradicating corruption...improving governance and institutionalizing the rule of law, there is no chance of defeating the Taliban.”<sup>7</sup>

The U.S. is not alone in identifying corruption as one of the main reasons the Afghan government is lacking legitimacy. The United Nations Security Council in Resolution 1890, adopted on 8 October 2009, called on the Afghan Government to put forward more of an effort “to fight corruption, promote transparency and increase its accountability.”<sup>8</sup> The U.S. policy crafted by the Obama Administration was designed to “strongly encourage” the Afghan Government to address corruption, with reinvigorated guidance from the U.S. and its coalition partners.<sup>9</sup> The “Obama Doctrine” on corruption in Afghanistan is dependent on a two prong approach: holding the Afghan government directly responsible for combating corruption with a financial penalty for non-performance,<sup>10</sup> and a significant increase of civilian mentors to help train and guide the Afghans on how to best attack corruption.<sup>11</sup> “Since January 2009, the Department of State has more than tripled the number of

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<sup>5</sup> Ibid, page 213.

<sup>6</sup> Kenneth Katzman, “Afghanistan: Post-Taliban Governance, Security, and U.S. Policy,” *Congressional Research Service Report for Congress*, April 20, 2010, page 16.

<sup>7</sup> “President Obama in Kabul,” Editorial, *The New York Times*, March 30, 2010, Section A, page 24.

<sup>8</sup> “United Nations Security Council Resolution 1890 Pertaining to Afghanistan,” *NWC 3088*, 2009, page 1-2.

<sup>9</sup> Kenneth Katzman, “Afghanistan: Politics, Elections, and Government Performance,” *Congressional Research Service Report to Congress*, June 29, 2010, page 12.

<sup>10</sup> Ibid, Summary page.

<sup>11</sup> Kenneth Katzman, April 20, 2010, Summary page.

civilians on the ground in Afghanistan to 992 (as of March 31). These civilians include experts from eleven different U.S. Government departments and agencies including the FBI.”<sup>12</sup>

The financial consequences for the Afghan Government for non-performance were nested with metrics measuring progress—in building Afghan governance and security, as required...by P.L. 111-32 (Public Law), and FY 2009 supplemental appropriation.”<sup>13</sup> The P.L. 111-32 mandated the withholding of funds earmarked for the Afghan Government if progress was not achieved as defined by corruption-specific metrics.<sup>14</sup> The resolve of the U.S. Government to enforce the new strategy was demonstrated in late June 2010, when a House Appropriations subcommittee...cited concerns about corruption in withholding approval of an administration request for nearly \$4 billion in non-military aid to Afghanistan for fiscal 2011,”<sup>15</sup> based on allegations that President Karzai was obstructing corruption investigations. As President Obama stated in his December 1, 2009, speech: “the Afghan government would be judged on performance (particularly on addressing corruption) and ‘The days of providing a blank check are over’.”<sup>16</sup> Establish the rule of law by utilizing the FBI would play a major part in aiding the Afghan Government to achieve results against corruption required by the Obama Administration.

### III. Corruption in Afghanistan: Its effects on the rule of law and the insurgency.

The rule of law is a socio-political covenant of trust between a government and its people. The government promulgates public laws with the intent of creating a safe and just society; it establishes an impartial and honest system of justice; the people agree to trust their government and obey laws, benefiting from the security and justice created by this contract. The integral part of this agreement is the trust by the people that application of justice will not be arbitrary and that no one is above the law. In Afghanistan because of corruption, the application of justice is arbitrary and for a price anyone could

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<sup>12</sup> “Report on Progress Toward Security and Stability in Afghanistan and United States Plan for Sustaining the Afghanistan National Security Forces,” *Department of Defense*, April 2010, page 8.

<sup>13</sup> Kenneth Katzman, June 29, 2010, page 11, parenthesis added by author of this paper.

<sup>14</sup> Ibid, page 12.

<sup>15</sup> Karen DeYoung, “U.S. Worried by Hamid Karzai’s attempt to assert control over corruption probes,” *The Washington Post*, Friday, August 6, 2010.

<sup>16</sup> Kenneth Katzman, June 29, 2010, Summary page, parenthesis added by author of this paper.



be above the law. Specifically, ~~corruption~~ has become more than the standard issue of bribery, nepotism, and extortion in government. Corruption has become a system, through networks of corrupt practices and people that reach across the whole of government to subvert governance. These networks ensure that the guilty are not brought to justice; often the officials and agencies that are supposed to be part of the solution to corruption are instead a critical part of the corruption syndrome. The Afghan National Police, Attorney General's Office, and court system (consistently fail) to detect, prosecute, judge, and punish corruption at any level."<sup>17</sup> The rule of law does not exist and ~~most~~ Afghans have little confidence in the formal justice system, (believing) that the justice sector is the most corrupt" part of the government.<sup>18</sup>

The national police are seen by the population as an organization motivated by the extortion of bribes rather than success in solving criminal activity.<sup>19</sup> The police derive significant income from making criminal charges go away. ~~The~~ The system of case preparation and tracking is primitive – making it possible for cases to disappear. Gathering evidence on crime and corruption is difficult due to limitations on investigative practices as well as pervasive interference in cases by informal community leaders, warlords, and state officials."<sup>20</sup> On a rare occasion when an investigation somehow manages to stumble forward, an influential politician or a powerful criminal are not under the threat of losing their freedom. ~~Judges~~ Judges are easily bought, and prison officials can be bribed to release anyone in the unlikely case that court systems and processes result in conviction and sentencing."<sup>21</sup> Any attempts by police or judicial authorities to address corruption is seen by the populace as simply deception that something is being done.<sup>22</sup> The rule of law could not be based on or enforced by institutions with rampant corruption.

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<sup>17</sup> *United States Agency for International Development (USAID)*, "Assessment of Corruption in Afghanistan," January 15, 2009-March 1, 2009, page 4, parenthesis added by author of this paper.

<sup>18</sup> *Ibid*, page 7, parenthesis added by author of this paper.

<sup>19</sup> *Ibid*, page 8.

<sup>20</sup> *Ibid*, page 8.

<sup>21</sup> *Ibid*, Page 8.

<sup>22</sup> *Ibid*, page 8.

In many countries public corruption and nepotism are practiced behind closed doors and the average citizen rarely comes into contact with corruption, in Afghanistan the equation is reversed. ~~Most~~ of the governmental corruption takes place in the course of performing mundane governmental functions, such as governmental processing of official documents, in which processing services routinely require bribes in exchange for action.”<sup>23</sup> Purchasing property, applying for identification documents, registering a car, seeking medical treatment, and filing a complaint as a victim of a crime exposes an Afghan citizen to demands for a bribe if they expect service or justice.<sup>24</sup> ~~Integrity Watch Afghanistan investigations...~~ show that Afghans pay more than a billion dollars in bribes each year and one third of this is paid to receive public services.”<sup>25</sup> The Taliban capitalizes on the widespread distrust of the government. Numerous surveys, interviews, and investigations revealed the Afghans attempt to resolve disputes and seek justice not by approaching the police, but by bringing the issue to village elders, and if this does not solve their problem they go to the Taliban for resolution.<sup>26</sup> To reverse this trend, confidence in the integrity of the police and their ability to honestly enforce laws especially in public corruption cases had to be established. The FBI had the innovative investigative approach and expertise to reverse this trend.

#### IV. The FBI Comes To Town.

USCENTCOM Commander General David Petraeus requested the FBI expand its engagement in Afghanistan. On May 27, 2009, General Petraeus and FBI Director Mueller in a Secure Video Teleconference discussed law enforcement capacity building and agreed to establish the Major Crimes Task Force-Afghanistan (MCTF-A).<sup>27</sup> General Petraeus’ goal was to expand the FBI’s mandate in Afghanistan beyond the Counterterrorism mission and involve it in targeting public corruption and other

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<sup>23</sup> Kenneth Katzman, June 29, 2010, page 13.

<sup>24</sup> Based on interviews of witnesses conducted by author in Afghanistan from February 2010 – June 2010, as Mentor of the Public Corruption Unit, Major Crimes Task Force, Forward Operating Base Camp Falcon, Kabul, Afghanistan.

<sup>25</sup> BBC Monitoring South Asia-Political, “Afghan body disagrees with findings of international corruption watchdog,” *BBC Worldwide Monitoring*, July 8, 2010, parenthesis added by author of this paper.

<sup>26</sup> Deborah Haynes, 'We have the Taliban - we don't trust the Government', *The Times (London)*, July 22, 2010 Thursday Edition 1, Scotland, page 30.

<sup>27</sup> Jason S. Fickett, Assistant Legal Attaché, “MCTF Concept of Operations and Statistical Accomplishments,” *FBI Email (Unclassified)* to author on August 28, 2010, page 7.

major crimes. Prior to the FBI joining the mission against corruption, Combined Security Transition Command-Afghanistan (CSTC-A) had engaged the British Serious Organized Crime Agency (SOCA), a recently created investigative body modeled on the FBI, to mentor a public corruption unit composed of investigators from the National Directorate of Security (NDS) of Afghanistan. SOCA investigations enjoyed some success, but their efforts were limited. The potential for success against corruption was there if a task force partnership was forged with the FBI. The two agencies brought to Afghanistan expertise and similar traditions of conducting complex, long term investigations, developed from similar legal statutes.

#### V. The Law Is on Their Side: RICO and SCPO.

The FBI's storied success against organized crime syndicates and major white-collar criminals involved in public corruption, has its roots in the unique Racketeer Influenced and Corrupt Organization Statute (RICO), one of the main achievements of the Organized Crime Control Act of 1970, Title IX, P.L. No.91-452, 84 Stat. 922. "The innovation in the RICO statute is its focus upon the enterprise as the fundamental organizing principle. RICO permits law enforcers not to focus only upon the acts committed by individual criminals, but instead to place those acts within a broader context: the criminal enterprise. The lawmakers' goal was to provide the means for dismantling these organizations. RICO defines a long list 'racketeering acts' and prohibits conduct which can be classified loosely as consisting of employing a 'pattern' of these racketeering activities to conduct an enterprise's affairs."<sup>28</sup> Originally meant to address organized crime, the RICO statute has proven effective in white collar public corruption investigations, allowing the prosecution of seemingly unrelated acts of corruption if they constitute a pattern of corruption.<sup>29</sup>

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<sup>28</sup> Morgan Cloud, "Symposium: RICO Thirty Years Later: A Comparative Perspective: Organized Crime, RICO, and The European Union," *Syracuse Journal of International Law and Commerce*, Summer 2000, page 6-7.

<sup>29</sup> Paul Coffey, "Symposium Law and the Continuing Enterprise: perspectives on RICO: Article: The Selection, Analysis, and Approval of Federal RICO Prosecutions," *1990 Notre Dame Law Review*, 65 Notre Dame L. Rev. 1035, page 3.

The FBI's British partners in Afghanistan have also developed a similar statutory environment in which holistic investigations of complex criminal activity are standard. In 2006, the United Kingdom established the SOCA with the increased recognition that white collar crime was a problem in the United Kingdom...Parliament created Serious Crime Prevention Orders (SCPO) as a preemptive step in white collar crime enforcement. The orders allow Courts to preemptively act upon suspicious activities, which led or potentially could lead to white collar crimes...SCPOs cover persons who are criminally involved in a serious crime, 'who may have facilitated the commission of a serious offence,' or even who are 'likely to facilitate the commission of an offence' (intentional or otherwise)."<sup>30</sup> FBI and SOCA, based on evidentiary standards established by RICO and SCPO, developed law enforcement operational art in the form of proactive, intelligence driven, flexible investigations. The FBI's operational art for conducting successful investigations is the ETI, and it used this concept to frame the ill-structured problem of corruption in Afghanistan.

#### VI. FBI's Operational Art: The Enterprise Theory of Investigation.

The FBI developed the ETI as the operational art it employs to bridge the evidentiary rules established by RICO and the achievement of the ultimate objective of an FBI-RICO investigation: the complete dismantlement of the criminal enterprise. The central philosophy behind the ETI is —unlike traditional investigative theory, which relies on law enforcement's ability to react to a previously committed crime, the ETI encourages a proactive attack on the structure of the criminal enterprise. Rather than viewing criminal acts as isolated crimes, the ETI attempts to show that individuals commit crimes in furtherance of the criminal enterprise itself.”<sup>31</sup>

The value of ETI becomes obvious when the investigative team accepts a number of premises that support the utility of the ETI. First, financial profit remains the underlying motive for most criminal

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<sup>30</sup> Daniel Huynh, "Preemption V. Punishment: A comparative Study Of White Collar Crime Prosecution In The United States And The United Kingdom," *Journal of International Business and Law*, Spring, 2010, 9 J. Int'l Bus. & L. 105, page 9-10.

<sup>31</sup> Richard A. McFeely, "Enterprise Theory of investigation," *FBI Law Enforcement Bulletin*, Washington: May 2001, Volume 70, Issue 5, page 19.

enterprises. Next, major organized criminal groups typically engage in a broad range of criminal activities to achieve this profit goal. While the nexus of these violations may be closely interrelated, major criminal enterprises historically rely on numerous criminal acts to support their existence and often divide the responsibility for committing these acts among their members. The ETI capitalizes on this diversity by analyzing the enterprise's full range of criminal activities, determining which components allow the criminal enterprise to operate and exploiting identified vulnerable areas within each component. The ETI identifies and then targets each of these areas simultaneously. The more diverse the criminal enterprise, the more potential for exploitation, due to the existence of these types of subsystems. A final premise of the ETI maintains that major organized criminal groups have a pyramidal hierarchy structure where the lower levels, consisting of more people, conduct the majority of the enterprise's criminal activities. Therefore, working a case up the chain' proves beneficial because it starts the investigation at the level where most investigative opportunities exist."<sup>32</sup>

This approach is the FBI's utilization of the ETI for Center of Gravity (COG) analysis. —The investigators examine the enterprise's leadership and component structure and determine the group's COG. In most enterprises, the leadership is usually the organization's COG. Through intelligence collection, they fully identify the enterprise's components, activities, critical capabilities, requirements, and vulnerabilities. They then proceed to apply pressure at the weakest and most active parts of the enterprise. The part could be a weak member or a poorly managed subset of the organization, like the group's financial component. This pressure continues throughout the investigation. Investigators gather intelligence, collect evidence, and develop witnesses to the criminal activity, assembling an indictment that targets the entire organization."<sup>33</sup>

Investigations targeting complex criminal enterprises are long term projects requiring reevaluation of the investigative strategy as the case evolves. As the investigative team applies the ETI, various critical

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<sup>32</sup> Ibid, page 19-20.

<sup>33</sup> John Giacalone, "The FBI: A Partner in Counterinsurgency Operations," *JMO Paper*, Naval War College, Newport, R.I., 23 October, 2006, page 7-8.

vulnerabilities of the criminal enterprise will become evident. The investigators must adjust their strategy and investigative techniques in order to take advantage of the new opportunities while continuing to simultaneously apply pressure on previously identified vulnerabilities of the COG. Often the investigation will not proceed as originally planned or remain covert for the duration of the case. The necessity to address some aspect of the case in an overt matter (i.e. emergency response to an imminent act of violence, or the interception of a significant amount of narcotics) will cause the subjects to adjust their criminal activities in an attempt to defeat the investigation. This will require the investigative team to perform a new COG analysis in order to assess whether the investigative strategy is still valid or requires change to address either a new COG or critical vulnerability.<sup>34</sup>

The ETI is a flexible paradigm that provides investigators with the ability to adjust strategy, sequence courses of action or techniques utilized at various phases of the case, as well as forecast possible future actions of the criminal organization. ~~Investigators~~ Investigators create time lines that chart significant historical events based on previous intelligence. In doing so, they can help reveal patterns of criminal activity and possibly predict future trends. The investigative strategy that (is) developed should anticipate the steps needed to counter these future trends, which remains the essence of the proactive nature of the ETI. As the case progresses, investigators can shift additional resources to the enterprise's most vulnerable areas. Because the ETI ultimately attempts to indict and convict all members of the enterprise, especially within leadership ranks, the investigative strategy needs to address how each investigative method will advance the investigation up the chain.‘ At this point, the use of innovative and sophisticated investigative techniques, is invaluable,”<sup>35</sup> since it is significantly more difficult to neutralize an enterprise's COG than convict lower ranked members.

Based on numerous successful RICO investigations against the hierarchy of traditional and non-traditional organized crime organizations, corrupt police departments, and various levels of government

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<sup>34</sup> The author investigated over 13 years non-traditional and traditional organized crime enterprises in New York City as a member of task forces with New York City Police Department, as well as a national program manager at FBIHQ.

<sup>35</sup> Richard A. McFeely, “Enterprise Theory of investigation,” page 21-22.

corruption, the FBI determined ~~the~~ use of a joint task force is a necessity in the successful application of the ETI.”<sup>36</sup> A multiagency task force creates strength through unity of effort by combining resources to achieve joint objectives.<sup>37</sup> After laying the administrative groundwork for the creation of an ETI driven task force in Afghanistan in May 2009, by October 2009 the MCTF-A was conducting high level corruption investigations. With FBI Agents leading, mentoring, and advising local task force investigators success came quickly, but so did controversy. As the corruption cases made inroads into the highest levels of Afghan government, MCTF-A found itself in a precarious position. President Karzai attempted to block its work, while President Obama elevated the MCTF-A’s success to a position of a ~~referendum~~” on President Karzai’s efforts against public corruption. How did the MCTF-A achieve success so quickly? The FBI through vetting, intense training, and investigative leadership introduced the ETI to Afghan law enforcement and this led to success.

## VII. The FBI creates the MCTF-A

In May 2009, the MCTF-A was created under the authority of the Minister of Interior of Afghanistan and was comprised of two Afghan investigative agencies, the Ministry of Interior (MOI) and the National Directorate of Security (NDS). Its mission was to conduct criminal investigations of high level corruption, organized crime enterprises, and high profile kidnappings.<sup>38</sup> The main thrust of the task force was to effectively attack public corruption, and bring together in a joint environment, investigators from two Afghan agencies known more for their competition and incompetence rather than cooperation and professionalism. Under the direction of the FBI, and with assistance from task force members,<sup>39</sup> the goal was to develop sustainable skills and capacity within MCTF-A by providing investigative and legal

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<sup>36</sup> Ibid, page 23.

<sup>37</sup> Ibid, page 23.

<sup>38</sup> Jason S. Fickett, “MCTF Concept of Operations and Statistical Accomplishments,” page 6.

<sup>39</sup> SOCA, U.S. Army Criminal Investigative Division (CID), Defense Criminal Investigative Service (DCIS), U.S. Treasury Department, French Gendarmerie, Royal Canadian Mounted Police (RCMP), Australian Federal Police (AFP), Contract Law Enforcement Professionals (LEPs), and CSTC-A.

assistance as mentors for the local investigators.<sup>40</sup> This is achieved by a dual track strategy: providing real-time law enforcement and intelligence analysis to support targeting, investigations, apprehension of high level criminals, and by providing specialized investigative and legal training.<sup>41</sup>

The FBI was building a modern, advance investigative capability for the Afghans from the ground up. Task force investigators were instructed from basic criminal investigative skills to advance theory and techniques of ETI. The hope was to eventually turn over the MCTF-A to independent Afghan control when the necessary investigative skill levels are reached. —Though both MOI and NDS claim to be highly trained and very capable to complete their mission, neither operates at a level sufficient to properly investigate complex crimes. Investigative personnel within each agency lack proper vetting and training. Many have very little experience and/or have obtained their position through financial means and not merit.”<sup>42</sup> The selection process for the task force is intense and competitive.

The FBI built Forward Operating Base —Camp Falcon,” and moved in January 2010. The camp, an old Soviet military facility, houses and trains the MCTF-A. The Task Force is designed to create a symbiotic relationship between the MOI and NDS. By operating together in a co-located facility on a daily basis, over time unity of effort will be achieved. At Camp Falcon the investigators work in a modern structure with state of the art telecommunications and computer connectivity. Proper law enforcement equipment was purchased and issued to vetted and trained MCTF-A investigators. The equipment consisted of weapons, ammunition, protective gear, vehicles, fuel, telephones, food, office equipment, office supplies, computers, operational funds, and source funding. The FBI also secured increases in salary for all local MCTF-A assigned personnel, in order to raise their standard of living and discourage corruption. The seeds of success were planted by the FBI, but progress of the Task Force would be a complex project with failures as well victories.

#### VIII. The MCTF-A: A Work In Progress.

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<sup>40</sup> Ibid, page 6.

<sup>41</sup> Ibid, page 6

<sup>42</sup> Ibid, page 7.



As agreed upon by task force members in a Memorandum of Understanding, the MOI and the NDS were responsible for providing law enforcement investigators for the MCTF-A. The investigators are then fully vetted by the FBI to include a satisfactory polygraph exam.<sup>43</sup> After a successful vetting, the investigators complete a Basic Investigators Course on-site at Camp Falcon. The course consists of firearms training, defensive tactics, crime scene investigation, Afghan law, interviewing and interrogation, and operational planning. After graduation the investigators are assigned to a unit within the MCTF-A where they begin an on the job training with the mentors (chosen by the FBI specifically for their skill-set in particular fields of investigation) as they investigate crimes their units are assigned. During their assignment at the MCTF-A, the investigators receive higher level training relevant to the type of crimes they are investigating. This training consists of the ETI, Investigating Public Corruption, Investigating Complex Kidnappings, Advanced Interview and Interrogation, Evidence Response, Law Enforcement Executive Development, Information Analysis, Financial Analysis, and Organized Crime Investigations.<sup>44</sup>

The MCTF-A consists of three investigative units (in order of importance): Corruption Investigation Unit (CIU), Organized Crime Unit (OCU), and the Kidnapping Investigation Unit (KIU). Each unit is equally staffed by MOI and NDS investigators who work jointly to investigate crimes with the goal of bringing each case to a successful prosecution. At the center of the MCTF-A is the Deconfliction Analytical Unit (DAU). The DAU reviews all investigative leads and raw information that comes into the MCTF-A from outside sources and the MOI and the NDS.<sup>45</sup> This information is screened for quality and deconfliction with the MOI and the NDS to ensure investigative efforts are not duplicated, and

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<sup>43</sup> The FBI Polygraph Program at Camp Falcon per request of representatives from the U.S. Department of Justice in Afghanistan, also tests Office of the Attorney General Prosecutors and judges assigned to the newly created Anti-Corruption Tribunal involved with MCTF-A investigations, and members of the Supreme Court who may hear appeals emanating from task force cases.

<sup>44</sup> Jason S. Fickett, "MCTF Concept of Operations and Statistical Accomplishments," page 10.

<sup>45</sup> Ibid, page 8.

issued to the Leads Unit for initial investigative review.<sup>46</sup> The investigative units are supported by co-located supply, logistics, evidence, technical and technical interception units. This structure of functionality is a completely new concept for Afghan law enforcement and has proven a success.

#### IX. The MCTF-A: Is the Experiment Working? The Measurements of Effectiveness.

On August 13, 2009, a Memorandum of Agreement was signed between the FBI and DoD regarding funding the MCTF-A. It was agreed the Task Force would be financially supported by the Afghanistan Security Forces Fund (ASSF) appropriation and the CSTC-A would be responsible for coordinating the disbursement of the funds.<sup>47</sup> The newly completed facility housing the MCTF-A in Camp Falcon was officially inaugurated on February 25, 2010.<sup>48</sup> The Task Force however was already conducting high profile corruption investigations since the Fall of 2009. As reported to the U.S Congress by the DoD, ~~in~~ October 2009, the MCTF achieved its first high-profile corruption arrest, General Saifullah.”<sup>49</sup>

Brigadier General Saifullah Hakim, ~~a~~ senior border police official from Kandahar, was arrested for collecting the salaries of nonexistent officers and stealing money from a ‘martyrs fund’ for families of slain police officers.”<sup>50</sup> It is this type of high-impact investigation on which the MCTF-A with FBI’s leadership has concentrated its efforts. In fact, since its creation approximately one year ago, the MCTF-A has achieved the following impressive statistical accomplishments: 83 total investigations (43corruption, 15 kidnapping, 25 organized crime); 21 major arrests; 9 major convictions; 563 polygraphs conducted; 59 electronic wire intercepts initiated; 167 trained investigators; 53 courses instructed; and 1252 hours of instruction completed.<sup>51</sup> The measurements of effectiveness represent the

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<sup>46</sup> Ibid, page 8.

<sup>47</sup> Ibid, page 2.

<sup>48</sup> Sarabjit Jagirdar, “FBI Director Inaugurates New Facility For Afghanistan’s Major Crimes Task Force,” *US State News*, Newswire, February 26, 2010.

<sup>49</sup> “Report on Progress Toward Security and Stability in Afghanistan and United States Plan for Sustaining the Afghanistan National Security Forces,” *Department of Defense*, April 2010, page 46.

<sup>50</sup> Joshua Partlow and Greg Miller, “Karzai calls for probe of U.S.-backed anti-corruption task force,” *Washington Post Foreign Service*, Thursday, August 5, 2010.

<sup>51</sup> Jason S. Fickett, “MCTF Concept of Operations and Statistical Accomplishments,” page 1.

successful application of the ETI targeting concept and investigative techniques combined with a rigorous training process.

The corruption targets are selected based on a number of critical factors. Chief among the selection criteria is addressing the individuals most dangerous to the accomplishment of the U.S. mission to establish the rule of law and a legitimate Afghan government. The limited resources of the MCTF-A are applied to targets with national visibility: the generals, the governors, and the ministers. The corruption of generals saps the morale of security forces. The corruption of governors turns residents of provinces into economic “prey” and the corruption of ministers prevents construction of infrastructure, hospitals remain without medicines and equipment, and the confidence of people in the government is debased.<sup>52</sup> The MCTF-A corruption cases are diverse, but all have the ETI as their foundation. A review of recent investigations of public officials across the spectrum of Afghanistan’s government and provinces, illustrates the successful application of ETI in a very short period of time in an environment highly resistant to honest law enforcement.

In the Fall of 2009, Mohammad Siddiq Chakari, the former minister of the Hajj and Religious Affairs, a close ally of President Karzai, was charged with soliciting and receiving kick-backs from travel-services companies based in Dubai, significantly inflating the cost of the holy voyage to Mecca for the average Afghan.<sup>53</sup> The investigation revealed the involvement of New Ansari in the conspiracy, the primary conduit to the international “hawala” money exchange system in Afghanistan. Also involved was its subsidiary, the Afghan United Bank, and numerous Karzai aides in an attempted cover up.<sup>54</sup> In June 2010, Brigadier General Malham Pohanyar, border police commander of Herat province, was charged with conspiring with narcotics traffickers and sentenced to 10 years in prison.<sup>55</sup> Earlier in

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<sup>52</sup> Compilation of interviews conducted by author of witnesses and victims on corruption, 02/2010-06/2010, Afghanistan.

<sup>53</sup> Michael Isikoff, Ron Moreau, Sami Yousafzai, “Contempt for Karzai,” *Newsweek*, April 19, 2010, Vol. 155, Iss. 16.

<sup>54</sup> Greg Miller, Ernesto Londono, “U.S. Officials say Karzai aides derailing corruption cases involving the elite,” *Washington Post*, June 28, 2010.

<sup>55</sup> Joshua Partlow and Greg Miller, “Karzai calls for probe of U.S.-backed anti-corruption task force,” *Washington Post Foreign Service*, Thursday, August 5, 2010.

2010, Brigadier General Aziz Ahmad Wardak, chief of police of Paktika province, and Colonel Ali Shah, the highest ranked border police official in Paktika province, were arrested for corruption, narcotics trafficking, and taxation of illegal border checkpoints on the Pakistan border.<sup>56</sup> This case was especially significant because the U.S. forces in Afghanistan receive close to 80% of their war material through Paktika province from Pakistan. One of the most serious cases involved the governor of Kapisa province, Khoja Ghulam Ghaws (Abubakr), who was appointed by President Karzai in 2007.<sup>57</sup>

Evidence was developed to charge Governor Abubakr with “colluding with insurgents and demanding kickbacks from contractors working on American- and Afghan- financed development projects,” Abubakr was also a co-conspirator in the killing of five members of a provincial reconstruction team in 2009.<sup>58</sup> Most recently, in August 2010, the MCTF-A arrested Mohammed Zia Salehi, Chief of Administration for the National Security Council, a close ally of President Karzai.

Salehi ~~was~~ arrested...after (being) wiretapped soliciting a bribe—in the form of a car for his son—in exchange for impeding an (MCTF-A) investigation into a company (New Ansari) suspected of shipping billions of dollars out of the country for Afghan officials, drug smugglers and insurgents. Mr. Salehi was released seven hours later, after telephoning Mr. Karzai from his cell to demand help. Mr. Karzai forcefully intervened on his behalf.”<sup>59</sup> This blatant interference by Karzai in yet another MCTF-A investigation and the threat by Karzai of either disbanding the MCTF-A or severely curtailing its authority and activities, triggered a crisis between the U.S. administration and Karzai. Senator Kerry, D-MA, delivered a warning to Karzai regarding any further interference with the MCFT-A, reminding him of the joint statement Karzai issued with President Obama during Karzai’s visit to the U.S. in May

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<sup>56</sup> Ibid.

<sup>57</sup> The author led the investigation against Governor Abubakr and his criminal organization. The case became a major issue of contention between the U.S. and President Karzai throughout early Summer 2010. Karzai blocked the arrest of Abubakr and his confederates, eventually leading to the dismissal of Deputy Attorney General Fazel Ahmed Faqiryar, an honest ally of MCTF-A. Faqiryar supported the task force investigations without reservation and challenged the corrupt practices of President Karzai and Attorney General Mohammed Ishaq Aloko.

<sup>58</sup> Dexter Filkins, Alissa J. Rubins, “Graft-Fighting Prosecutor Fired in Afghanistan,” *New York Times*, August 28, 2010.

<sup>59</sup> Dexter Filkins, Mark Mazzetti, “Key Karzai Aide In Graft Inquiry Is Linked to C.I.A,” *The New York Times*, Thursday, August 26, 2010.

2010.<sup>60</sup> In the statement, ~~both~~ countries recognized that fighting corruption emanating from any source in Afghanistan remains a top priority. President Karzai reaffirmed his inaugural pledge to bring to justice those involved in corrupt activities. The United States pledged technical and financial assistance to support President Karzai's efforts to strengthen the powers and authorities of the Major Crimes Task Force."<sup>61</sup> Additionally, billions of dollars of non-military aid marked for Afghanistan were delayed by Congresswoman Nita Lowey, D-NY, pending the resolution of the Karzai interference issue.<sup>62</sup> The MCTF-A deservedly earned the reputation of putting a ~~dent~~ quickly and effectively into corruption in Afghanistan. Even Richard C. Holbrooke, a veteran of testifying before Congress on counterinsurgency issues, and President Obama's Special Representative for Afghanistan and Pakistan, when pressed by members of the House subcommittee that oversees financing of the State Department and the United States Agency for International Development, on what was being done about corruption in Afghanistan, touted the success of the MCTF-A.<sup>63</sup> The MCTF concept if spread throughout Afghanistan would significantly decrease the high-level public corruption on all levels of Afghan Government.

No other event speaks to the effectiveness of the MCTF-A and its ETI driven investigations than President Karzai's direct actions to sabotage the work of the MCTF-A. Karzai has launched a public campaign against the MCTF-A, accusing it of numerous violations of Afghan law and the civil rights of Afghan citizens. Mr. Karzai is attempting to discredit its work and divert the public's attention from his administration's corruption. The MCTF-A, with its ETI focused law enforcement is making strides against corruption with new and often misunderstood advance investigative techniques, and this is intimidating many in President Karzai's administration, including President Karzai.

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<sup>60</sup> Karen De Young, Joshua Partlow, "Congress growing more weary about corruption in Afghanistan, Sen. Kerry says," *The Washington Post*, Sunday, August 15, 2010.

<sup>61</sup> Government Printing Office, Joint Statement by President Barack Obama and President Hamid Karzai of Afghanistan, DCPD Number: DCPD201000368, May 12, 2010.

<sup>62</sup> Karen De Young, Joshua Partlow, "Congress growing more wary about corruption in Afghanistan, Sen. Kerry says," *The Washington Post*, Sunday, August 15, 2010.

<sup>63</sup> Mark Landner, "Corruption Helps Taliban Win Recruits, Envoy Says," *The New York Times*, July 29, 2010, page 12.

## X. Counterarguments.

The counterargument to the thesis is the ETI driven investigations of the FBI led MCTF-A are against the laws of the Afghan Constitution, in violation of the human rights of Afghans, and are not the best way to address public corruption in Afghanistan. These accusations against the MCTF-A are unsubstantiated and have no merit. All investigative actions, especially sensitive law enforcement actions such as arrests, searches, and investigative detentions, are based on the laws of the Constitution of Afghanistan and undergo five levels of legal review before implementation.

Requests for electronic interception, search, and arrest warrants, are reviewed for probable cause and legality and authorized by FBI Special Agent mentors, DOJ attorney mentors, Afghan case prosecutor, (and although not required by Afghan law of criminal procedure) either the Deputy Attorney General or the Attorney General, and finally by an Afghan judge. The numerous layers of review assure fairness and create a built in redundancy to guarantee all laws are followed to the letter and the spirit. The MCTF-A targets powerful political figures, and has adopted this level of review to avoid any perception of bias, unnecessary secrecy, and political machinations.<sup>64</sup> The MCTF-A philosophy is “Transparency of Action and Intent,” but codification of the Task Force in the constitution would help reduce interference with its mission.

## XI. Conclusion.

The FBI has introduced modern investigative techniques utilizing the MCTF-A as a vehicle to combat high level public corruption. A certain level of success has been achieved quickly creating hope for the future. At the core of this success is the ETI, the leadership provided by FBI Agents, and their task force partners for the local investigators. The introduction of honest, sophisticated law enforcement has led to investigative success and a feeling of motivation for the Afghans encouraging them to continue the fight. The Task Force has not been without its detractors and controversy. Although it is

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<sup>64</sup> The author was a mentor of the Public Corruption Unit (PCU) of MCTF-A between February 2010 and June 2010, and participated in the five level document review of every investigation conducted by the PCU that sought to utilize sophisticated and invasive means to collect evidence.

supported by the Obama Administration, it is consistently undermined by President Karzai, stalling many of the MCTF-A investigations in bureaucratic and legal “red tape.” Often subjects are warned of pending investigations, complicating the task of apprehending them. Nevertheless, the task force offers the best tools, techniques, and investigative doctrine for combatting public corruption in Afghanistan. The MCTF-A is an effective use of U.S. and its coalition partners’ soft power to affect positive change, expose corruption, and incrementally establish the rule of law in Afghanistan.

## XII. Recommendations.

Increase the number of coalition mentors and establish a MCTF in every province to address corruption on a wider scale, and demonstrate to Afghans corruption is being successfully dealt with. Codify the MCTF-A as an independent body in the Afghan constitution with clearly defined lines of jurisdiction, compliance and reporting requirements, and minimize central government interference.

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